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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,868	10/25/2001	Gerald Harris	340800014COB	6762

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT PAPER NUMBER

3632

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/074,868

Applicant(s)

HARRIS, GERALD

Examiner

Naschica S Morrison

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2002 .
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____ .
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____ .

DETAILED ACTION

This is the second Office Action for serial number 10/074,868, Overboot For A Bi-Pod Adapter, filed on October 25, 2001. Claims 20-34 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-31 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

Claim 20 recites the limitation "the floor" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 20, line 8 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a floor portion" in claim 20, line 8 is intended to refer to "a floor portion" in claim 20, line 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 20-24, 27, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,711,103 to Keng in view of U.S. Patent 5,713,382 to

Art Unit: 3632

Midcap in view of U.S. Patent 4,964,430 to Janis, and further in view of U.S. Patent 2,799,287 to Wagner. Regarding claims 20-24, 27, and 31, Keng discloses a multi-legged firearm support assembly (10) comprising: a mounting block (16), two downwardly extending legs (57,58) each connected to the mounting block and having a width and a foot portion (81), wherein the foot portion includes a generally cylindrical upper portion (adjacent 79) and a lower portion (at 81). Keng does not disclose the lower portion having the shape of a truncated cone. Midcap discloses a foot portion (100) having a generally cylindrical upper portion (110) and a truncated cone-shaped lower portion (120) with a maximum diameter substantially greater than the substantially constant diameter of the upper portion (110). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the foot portion of Keng by providing a lower portion having the shape of a truncated cone because one would have been motivated to provide better stability on sand and gravel as taught by Midcap (Abstract, lines 1-5 and col. 2, lines 8-12). Keng in view of Midcap does not disclose the firearm support assembly including an overboot in combination with the foot portion. Janis discloses a thin walled, flexible overboot (Figs. 1 and 3) for a foot portion (6) comprising: an upper portion circumferentially surrounding the foot portion (portion of 2 that is adjacent 4), a flat floor (8) having a plurality of concentric triangular ribs (1), a cylindrical, lower portion (at 2 generally) extending upwardly from the floor (8) to interconnect the floor (8) and upper portion, and a band/cord (5) removably encircling the upper portion of the overboot; wherein the upper portion includes a plurality of triangularly shaped slots (3) creating a plurality of axially

extending fingers (see near 4) which define a continuous annular recess and accommodating circumferential constriction of the upper portion about the foot portion (6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the firearm support assembly by providing an overboot attached to the foot portion because one would have been motivated to prevent slippage of the feet on ice or packed snow as taught by Janis (col. 1, lines 5-8). Keng in view of Midcap in view of Janis does not disclose the cylindrical, lower portion (at 2 generally) being conical and extending outwardly from the floor (8). Wagner discloses a foot portion (T) combined with an overboot (Fig. 1), wherein the overboot closely envelops the sides and bottom of the foot portion (T). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot to be sized and shaped identical to the foot portion (i.e. provide a truncated cone-shaped lower portion) because one would have been motivated to prevent relative movement between the overboot and foot portion as taught by Wagner (col. 1, lines 56-61). Regarding claim 30, Keng in view of Midcap in view of Janis and further in view of Wagner fails to disclose the cord being removably tied about the wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing a tied cord type band since it is well known in the art to alternatively connect members by a tied cord, for instance by lashing members together in a clamped arrangement.

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner, and further in view of

U.S. Patent 4,630,626 to Urban. Keng in view of Midcap in view of Janis in view of Wagner discloses the overboot and foot combination as applied to claim 20 above, but does not disclose the concentric ribs (1) extending radially between the floor and upper portion of the overboot. Urban discloses an overboot (fig. 4) comprising: a cylindrical upper portion (3) for engaging a foot portion and a truncated cone-shaped lower portion (4) with a plurality of concentric ribs (10) radially extending between a floor (at 10 generally) and the upper portion (3) of the overboot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing concentric ribs extending radially between the floor and upper portion of the overboot because one would have been motivated to increase surface contact and prevent slippage of the feet as taught by Urban (col. 1, lines 52-55).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner and further in view of U.S. Patent 612,685 to Thorp et al (Thorp). Regarding claim 28, Keng in view of Midcap in view of Janis in view of Wagner discloses the overboot and foot combination as applied to claims 20-24, 27, and 31 above, but does not teach the fingers (see near 4) forming a recess for receiving the band/cord (5). Thorp discloses a coupling (Fig. 2) including annular, radially extending fingers (3) forming a recess (defined beneath the curved surface of 6) for receiving a band (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing fingers forming a recess because one would have been motivated to prevent the band from slipping off the overboot as taught by Thorp (lines 61-66).

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner and further in view of U.S. Patent 4,947,882 to Levasseur. Regarding claim 29, arguably, the band/cord of Janis comprises a pliant strap (column 2, line 65 described as adjustable) inherently having a diameter, in a relaxed state, less than the diameter of the upper portion of the overboot in a disengaged state (otherwise the band would not be able to clamp the overboot on the foot portion). Nonetheless, Levasseur discloses an overboot (3) including a spring/cord (60) inherently having a smaller diameter than the diameter of the upper portion (51 generally) of the overboot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the overboot with a spring-type band as a well known art equivalent means for clamping the upper portion of the overboot as taught by Levasseur.

Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner in view of Urban, and further in view of Thorp. Regarding claim 32, Keng in view of Midcap in view of Janis in view of Wagner in view of Urban discloses the overboot and foot combination as applied to claim 25 above, but does not teach the fingers (see near 4) forming a recess for receiving the band/cord (5). Thorp discloses a coupling (Fig. 2) including annular, radially extending fingers (3) forming a recess (defined beneath the curved surface of 6) for receiving a band (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing fingers forming a recess because one would have been motivated to prevent the band from

Art Unit: 3632

slipping off the overboot as taught by Thorp (lines 61-66). Regarding claim 34, Keng in view of Midcap in view of Janis in view of Wagner in view of Urban in view of Thorp fails to disclose the cord being removably tied about the wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the overboot by providing a tied cord type band since it is well known in the art to alternatively connect members by a tied cord, for instance by lashing members together in a clamped arrangement.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keng in view of Midcap in view of Janis in view of Wagner in view of Urban in view of Thorpe as applied to claim 32 above, and further in view of Levasseur. Regarding claim 33, arguably, the band/cord of Janis comprises a pliant strap (column 2, line 65 described as adjustable) inherently having a diameter, in a relaxed state, less than the diameter of the upper portion of the overboot in a disengaged state (otherwise the band would not be able to clamp the overboot on the foot portion). Nonetheless, Levasseur discloses an overboot (3) including a spring/cord (60) inherently having a smaller diameter than the diameter of the upper portion (51 generally) of the overboot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the overboot with a spring-type band as a well known art equivalent means for clamping the upper portion of the overboot as taught by Levasseur.

Response to Arguments

Applicant's arguments filed 9/24/02 have been considered but are not persuasive.

Regarding Applicant's argument that "Janis does not disclose a flexible overboot" and "Janis teaches away from using a flexible material", examiner respectfully disagrees. Janis does disclose the overboot being constructed of a "flexible" material since "flexible" is defined by Merriam-Webster's Collegiate Dictionary as "capable of being flexed" and since "flex" is defined as "to bend repeatedly". Clearly the overboot of Janis is constructed of a "flexible" material since Janis teaches that the overboot may be attached to a foot portion at will (i.e. repeatedly) (col. 1, lines 32-35).

Regarding Applicant's argument that "Janis... discloses a plurality of triangular ribs or teeth extending from the generally cylindrical lower portion or outwardly-extending section 12", examiner respectfully disagrees. The rejection applied relies on the embodiment of Figures 1, 3, and 5, not the alternative embodiment of Figures 2, 4, and 6 to which the Applicant's arguments are directed. In figure 1 specifically, Janis clearly discloses the ribs (1) extending from the floor (8).

Regarding Applicant's argument that Janis does not disclose the axially extending fingers cooperating to form an axially surround recess, examiner respectfully disagrees. Although Janis does not *illustrate* the fingers forming a continuous recess, the fingers are fully capable of forming a continuous recess when attached to a foot portion of a smaller diameter than that illustrated in Figure 1.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 2002/0074467 to Harris discloses an overboot for a bi-pod.

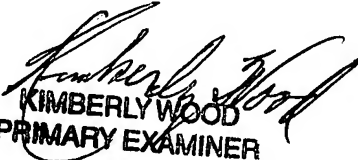
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 308-2168.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
12/13/02


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PRIMARY EXAMINER